HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.601 of 2007

Dated:05.01.2007

Between:

Dukkupati Swarajya Lakshmi.

…Petitioners

and

The District Registrar and another.

…Respondents

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.601 of 2007

ORDER:

The petitioner alleges that she purchased land admeasuring Acs.7.46 cents in Survey No.197/A3 situated at Vepagunta Village of Visakhapatnam District, for a sale consideration under an agreement of sale, and is in possession of the same. It is alleged that in 1970 lay out was made and plots were sold, and an extent of 5500 square yards of land remained, which she offered to sell due to urgent need of money. When the sale deed executed in favour of the purchasers was presented before the registering authority - the second respondent herein, he refused to register the documents. The reason given by the second respondent was that in view of the orders of the Government in G.O.Ms.No.509, dated 28.07.2000, transaction in respect of the subject land is prohibited as against public policy. Aggrieved by the same, the present Writ Petition is filed, seeking a writ of mandamus declaring G.O.Ms.No.509, dated 28.07.2000, as unconstitutional and for a consequential direction to the respondents to receive and register the deeds of conveyance executed by the petitioner in favour of any third party pertaining to the subject land.

In **State of Rajasthan v. Basanth Nahata**[1], the Supreme Court struck down the provision in Registration Act as amended by the State of Rajasthan as *ultra vires*. Following the same, a Division Bench of this Court in its judgment, dated 07.12.2005, in W.P.No.14099 of 2003 and batch struck down Section 22-A of the

Registration Act (for short 'the Act') as applicable in State of Andhra Pradesh. It is also brought to the notice of this Court that Special Leave petition filed by the State Government against the said judgment was also dismissed by the Supreme Court on 11.08.2006. Therefore, the impugned G.O.Ms.No.509, dated 28.07.2000, cannot be sustained.

However, it is brought to the notice of this Court that G.O.Ms.No.509, dated 28.07.2000, was already quashed by this Court in W.P.No.55 of 2007, dated 03.01.2007.

Following the above, this Writ Petition is disposed of directing the second respondent or any other Registering Officer to accept the document presented by the petitioner and consider for registration. Be it noted, if for any reason, the document presented is not registered, it is incumbent on the part of the Registering Officer to record and furnish reasons under Section 71 of the Act. Even thereafter, if the petitioner has any grievance, she may file appeal before the Appellate Authority under Section 72 of the Act. Thereafter, if any adverse order is passed by the Appellate Authority, the petitioner can file a suit under Section 77 of the Act. Be it also noted that in case the Government claims the land as belonging to them, it shall be open to them to avail appropriate remedy either before the Special Court/Special Tribunal under the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982, or by filing a declaration suit or by taking necessary action under the Andhra Pradesh Land Encroachment Act, 1905. No costs.

(V.V.S.RAO, J)

05.01.2007
vs

[1] (2005) 12 SCC 77 = 2005 AIR SCW 4456